

REMARKS

In the last Office Action, all pending claims were rejected and the action was made a final action.

Notice is taken of the appearance of new counsel for the Applicant. A power of attorney with revocation of all prior powers has been signed by the inventor and officer of the assignee and, along with a change of correspondence address and a Request for a Continued Examination, has been filed with this Reply to the outstanding Office Action.

The undersigned has reviewed the application, the Office Actions, particularly the final action, the Interview summaries, the pending claims, the declarations, and the cited prior art, particularly the art applied in the final action, including Scroggie (US 6,185,541); Stewart (US 6,249,405); Cupps (US 5,991,739) and the definition of the term "franchise" from Webster's Dictionary cited by the Examiner.

In response, the Applicant submits new claims herein to clearly and patentably distinguish from the applied prior art, including what the prior art would teach to one of ordinary skill in the art.

In addition, Applicant requests the Examiner to reconsider the actual content of the prior art in view of the new claims and the following remarks.

Some of the patentable differences between the present invention and the collection prior art are:

1. In the present invention, the website selects only one reseller (All claims).

2. The user or prospective customer cannot alter the computer-selected choice or select between several resellers (Claims 67-69, 71 and 73-75).

3. The only one reseller is selected on the basis that the postal address code of the prospective customer is within, or closest to, a pre-defined exclusive marketing territory of the reseller which is stored in the website with the pre-defined non-overlapping territories for a plurality of resellers for comparison with said postal code address (Claims 68, 70-75).

Additional patentable differences of more detailed embodiments include:

4. The invention requires a certain amount of data entry before a reseller is selected. It requires that the product selection proceed before the reseller selection. (Claims 72, 73) (See app., Fig. 2, Steps 1-8)

5. In the preferred embodiment, the invention is limited to selecting one voucher for one product at a time for one reseller, which is a model applicable to big ticket items, such as boats. (Claim 75.)

Distinctions 4) and 5) distinguish from the commercial embodiment of Scroggie (www.supermarkets.com) represented by screen display Screen Exhibits 1-3 attached hereto, in which the customer first selects the region in which the customer is located (Screen 1), then one of several resellers (Jewel/Osco, Osco Drug, Piggly Wiggly) (Screen 2) before selecting multiple products (Screen 3). In this system the customer is fully aware that the zip code is determining a menu of possible reseller chains.

The cited art does not have the computer perform the selection of the reseller based on the criterion of the invention; it has the customers selecting the reseller for their own convenience.

Scroggie allows the customer to directly select the reseller from a group of resellers, any statements in the Office actions to the contrary notwithstanding.

Scroggie says on its front page "for purchase incentives redeemable at retail stores, the customer ... must also designate a retailer (12) at which the purchasing incentive can be exercised." (Abstract, lines 13-17)

Scroggie's claims relate to providing a purchasing incentive for a region, not a reseller. The customer then chooses which reseller in the region to select or go to. None of Scroggie's claims defines the incentive as limited to only one reseller. (See Scroggie, claims 1-10, Summary of Invention, col. 1, lines 51-61)

In addition, in claim 67-69, 71 and 73-75, the method limits the control of the prospective customer over

selection of the reseller other than by entering the manufacturer and product selection data and the address of the prospective customer.

Scroggie gives the customer regional discounts and allows the customer to pick the reseller.

All of the cited references allow the user additional, direct control over the selection of the reseller.

Throughout the final action, the Examiner comments on ways in which the user of customer is allowed to affect or modify the choice of the reseller (See last Office action, page 5, line 11-13; page 8, line 6; page 8 lines 13-14; page 10, lines 10-11). In view of these remarks and the content of the applied references, it must be deemed nonobvious to limit what the user or customer can do. Without such a limitation on the user's ability to select the reseller (or even be aware of how the reseller is being selected), the object of the present invention would be frustrated. The present invention operates from the viewpoint of the website to limit the customer's options as to resellers, which is a major object of this invention. This selection by the website is largely transparent to the user (claim 74) due the sequence in which screen displays are provided and in which the user enters the data (See Steps 1-8 in Fig. 2 and description in paras [0041]-[0045]). In the present invention, the user is not informed that it is the postal address code as opposed to an address or other information that will determine which reseller is selected. In Screens 1-3 attached hereto, it is clear to the customer that it is the postal address code that is driving the selection.

In the last Office action, claim 38 was rejected over Scroggie and Stewart in view of the definition of "franchise" in Webster's Dictionary.

The logic of the Examiner's rejection of former claim 38 and other claims containing the territory limitation is stated on pages 8 and 10 of the last office action is generally as follows:

1. Scroggie lets the buyer choose the nearest reseller.

2. Stewart allows the buyer to choose the franchise chain (Denny's, Avis).

3. The computer system will naturally search for the nearest retail outlet as a matter of convenience.

4. If the nearest retailer is a franchised operation, it will have a producer-assigned territory.

5. It would therefore be obvious to somehow in some unspecified way make the franchise territory part of the decision-making process.

This falls far short of the invention as now expressed in claims.

The franchise in a McDonald's outlet is something like "another McDonalds will not be licensed within X blocks or .miles of the first outlet." Unlike franchises with stores like Avis and McDonald's, the resellers in the present invention have large pre-assigned "marketing" territories of maybe 50 miles or more. By agreement they are only allowed to advertise and conduct events (market) in their own territories (See spec. paragraph 0006). While they can sell to a customer who enters their territory on his or her own initiative (to avoid antitrust issues), they cannot advertise or hold events (market) except in their own territory. This differs from the franchises such as restaurants and car rental agencies, where advertising and marketing is carried on largely by the franchisor or on a group basis for the benefit of a large group of franchisee outlets (McDonalds, Avis) within a geographical territory.

Thus, an ad by McDonald's benefits all stores in the metro area that provide the product and the customer selects which one to go to.

These franchises are not like the resellers in the present invention, who cover large territories and do their own reseller advertising (See spec. paragraph 0006).

The motivation of the present invention is not to allow the user to find out the nearest reseller to go to, it is motivated by directing the customer to the resellers in the

"appropriate geographic ... area" (spec., para. 0009, last sentence, para 0012, first sentence). "User convenience" is not the primary factor.

Assuming a group of resellers with non-overlapping pre-assigned marketing territories, the zip code of the customer will be compared with reseller territories offering the product. If the zip code is within a reseller territory, that designates the specific reseller. If the zip code is within no reseller territory, then it is compared to the reseller territories to find the closest reseller territory. This may or may not be the physically closest reseller store depending on the location of reseller stores in adjoining territories and the offerings of the different available products.

Due to the difference in the two approaches, the cited references allow the user to select the reseller or alter that selection for user convenience. The above-cited claims of the present invention do not allow this.

Much has been made in the documents of record concerning the application of this invention to the boat industry, which is not expressly recited in the present application.

Once the parameters of the present claimed system are understood, it will be seen that the system and method of the invention are particularly advantageous for big ticket items, such as boats, which employ the distribution systems discussed in paragraph 0006 of the application. On the other hand, the parameters and processes of the cited art, such as Scroggie, Stewart and Cupps, show that their systems are suitable for retail chains of restaurants and grocery stores and are not applicable or advantageous to the sale of boats through the current reseller distribution system for boats, which is described in the Background of the Invention.


In view the amendment and remarks, it is strongly believed that the new claims are novel and nonobvious over the art of record.

CONCLUSION

In view of the Amendment and Remarks, reconsideration of the patent application is respectfully requested. After the amendment, claims 67-75 are now pending and a Notice of Allowance for these claims is earnestly solicited.

Respectfully submitted,

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